

33PT3M01  
33CAM01

7

# CONTRACT FOR GENERAL REASSESSMENT TECHNICAL ASSISTANCE

This contract is entered into this 10<sup>th</sup> day of July, 2000 by and between the County Assessor and undersigned Township Assessors of Henry County, Indiana, hereinafter referred to as the "Assessors", and The Cole•Layer•Trumble Company, a wholly owned subsidiary of Tyler Technologies Inc., a company formed under the laws of the State of Delaware and qualified to do business in the State of Indiana, hereinafter referred to as the "Professional Appraiser".

## **RECITALS**

- A. The Assessors have determined that they should employ the Professional Appraiser as a technical advisor for general reassessment purposes according to the provisions of IC 6-1.1-4-17;
- B. The Assessors have advertised for bids according to the provisions of IC 6-1.1-4-18 and fulfilled all other statutory conditions precedent to the employment of a technical advisor;
- C. The Assessors wish to contract with the Professional Appraisers and the Professional Appraisers are willing to be contracted by the Assessors;
- D. The Professional Appraiser is a Professional Appraiser as that term is defined in IC 6-1.1-4-17(c) and IC 6-1.1-31.7;
- E. This Contract is subject to the provisions of 50 IAC 15, and Professional Appraiser will comply with the provisions of 50 IAC 15 in connection with this Contract; and
- F. The Assessors have by majority vote, taken in accordance with the procedures recommended by the State Board of Tax Commissioners for then application of IC 6-1.1-4-17, determined to enter this Contract.

## **AGREEMENT**

In consideration of the premises, mutual covenants and obligations of the parties, the Assessors and Professional Appraiser agree as follows:

### **1. Incorporation Of Recitals.**

The foregoing recitals are adopted by the parties as being true and accurate statements, and are hereby incorporated as binding representations of this Agreement.

### **2. Duties of Professional Appraiser.**

- (a) The Professional Appraiser shall provide technical assistance to Assessors in connection with the 2002 general reassessment required by IC 6-1.1-4-4, as requested and assigned by the authorized designate of the Assessors, under the terms and provisions of this Contract, in accordance with and furtherance of all rules governing the assessment of real property promulgated by the State Board of Tax Commissioners, and all other applicable laws, statutes, ordinances, or administrative rules.
- (b) The Professional Appraiser shall, after proper request by the Assessors, collect all relevant property data and information necessary to establish the proper assessment of a parcel of real property under IC 6-1.1-4, and recommend an appropriate assessed valuation for that parcel. The Professional Appraiser shall gather all information that is needed to determine true tax values and assessed values for certain specified parcels/properties for the March 1, 2002 assessment date. The Professional Appraiser shall make a preliminary determination of the true tax value and assessed value for the parcels/properties, all in accord with the statutes, rules, and the instructional bulletins or directives relating to those parcels/properties.
- (c) The activities conducted by the Professional Appraiser shall be referred to as a "review". The Assessors shall notify the Professional Appraiser of the parcels, which the Professional Appraiser is to review. The notification shall be in writing. With the all information the Assessors shall provide, or make available to, the Professional Appraiser information about the geographic location of the property obtained from building permits, assessment registration notices under IC 6-1.1-5-15, or other comparable means. Notification shall be deemed to be given when mailed; or if not mailed, upon actual receipt of the notification.
- (d) The parcels to be reviewed by the Professional Appraiser under this Contract are limited to the following class(es) of property: Residential, Agricultural, Commercial, Industrial; and Exempt.
- (e) All direct assessment activities must be performed by a level two assessor-appraiser certified under IC 6-1.1-35.5. All work performed under this Contract must be either organized, supervised, or reviewed by a level two assessor-appraiser certified under IC 6-

1.1-35.5. Additionally, a level two assessor-appraiser certified under IC 6-1.1-35.5 must personally fulfill the following duties: (1) Final value recommendations, (2) Subjective parcel and neighborhood ratings review to include grade and condition; (3) Statistical analysis for depreciation and cost index studies; (4) Conduct hearings at the informal, formal, PTABBOA, and State Tax Court levels; (5) Apply land valuation rules.

(f) Administrative personnel employed by the Professional Assessors may be used to fulfill the following duties: (1) General data review, (2) parcel routing, and (3) general office duties.

(g) The Professional Appraiser will be responsible for collecting and entering data into the County's computer system that is associated with the 2002 and 2003 New Construction.

(h) The Professional Appraiser will not be responsible for the following duties: (1) Land valuation commission recommendations, (2) Copying existing property record cards to be used in the reassessment by the Professional Appraiser, (3) Copying up to date tax plat maps for use by the Professional Appraiser in the reassessment; and (4) Providing office space including a phone line.

(i) The County shall provide all state-prescribed forms (paper stock for property record cards, Form 11's with postage) and the processing of the forms at the completion of the project. The Professional Appraiser shall be responsible for data entry pertaining to the 2002 Reassessment, 2002 New Construction and 2003 New Construction

(j) The professional Appraiser will utilize the County's appraisal software system. This contract does not include installation or support of any software system. The County is responsible for providing a stable and fully functioning appraisal software.

(k) The Professional and the County shall negotiate appropriate time extensions in this contract due to, but not limited to the following reasons:

- Tax Lien Date Change
- Software Certification
- StateTax Board actions and initiatives
- and court rulings

## **2. Consideration.**

The Assessors shall pay the Professional Appraiser as follows:

A fee in full payment for the complete performance of all duties, responsibilities and activities set out on the attached Exhibit "A", incorporated by reference.

A fee of FOUR HUNDRED DOLLARS (\$400.00) per day per person will be charged for any services desired by the Assessors not listed in the contract or contained within the contract.

**3. Term Of Contract.**

- (a) The Assessors shall first notify the Professional Appraiser of properties and parcels the Professional Appraiser is to review within fifteen (15) days of the contract signing date.
- (b) The Professional Appraiser shall commence work under this Contract within fifteen (15) days of the date of execution of this Contract.
- (c) The Professional Appraiser shall complete all work to be performed under this Contract, other than assistance required in regard to an appeal filed under IC 6-1.1-15, on or before June 1, 2002, or the state designated tax lien date.

**4. Professional Appraiser Certification; Contract Void on Revocation.**

- (a) The Professional Appraiser must be certified as a "professional appraiser" under IC 6-1.1-31.7 in order to enter into this Contract. The Professional Appraiser represents and warrants that he/she/it is certified as a "professional appraiser" under IC 6-1.1-31.7 at the time of entering into this Contract; and will take all steps necessary to remain certified as a "professional appraiser" under IC 6-1.1-31.7 through the term of this Contract.
- (b) In accordance with IC 6-1.1-31.7-4, this Contract is void and the Contractor may not receive additional funds under this Contract, if the Professional Appraiser's certification as a "professional appraiser" under IC 6-1.1-31.7 is revoked.

**5. Contract Representative.**

The Assessors shall designate a Contract Representative to serve as the primary contact person for each township and notify the Professional Appraiser of the designation within fifteen 15 days of contract award.

**6. Work Plan.**

The Professional Appraiser has attached a preliminary work plan (see Exhibit B). The work plan is subject to approval by the Assessors. The Professional Appraiser and Assessor agree to work towards a final work plan within thirty (30) days of the Contract signing.

**7. Contract Reports and Monitoring.**

The Professional Appraiser shall be required to provide written progress reports to the Assessors in a form reasonably prescribed by the Assessors. The reports must include the number of parcels being reviewed by the Professional Appraiser and the status of the

work being done. The Assessors may require additional information be included in the reports. The Professional Appraiser shall submit the reports to the Contract

Representative each month on or before the 10<sup>th</sup> day of the month. The Assessors may at all times inspect the records of the Professional Appraiser to verify the progress and evaluate the quality of work performed. The Assessors may accompany the Professional Appraiser's personnel in their assigned duties to assure the Professional Appraiser's adherence with contractual specifications and approved procedures. The Professional Appraiser shall extend its full cooperation to the Contract Representative by providing access to all program related records, and by making personnel available upon request for the purpose of monitoring quality, performance and progress.

#### **8. Time And Manner Of Payment.**

The Professional Appraiser shall be paid as follows:

At the end of each month, the Professional Appraiser shall submit a claim for payment for work done under the Contract during that month. The amount of each monthly payment is subject to approval by the Contract Representative and is subject to full compliance with all other obligations under this Contract. Approval shall be based on the progress reports submitted by the Professional Appraiser and on the Contract Representative's inspection of the Professional Appraiser's assessment records. The Contract Representative shall make payment to the Professional Appraiser within thirty (30) days after approval.

If all work is not completed under this Contract by the completion date specified in section 3 (c) of this Contract, then all further payments will be suspended at that time until all work has been satisfactorily completed and approved by the Contract Representative and as otherwise required under this Contract. Payments of the suspended amount will be made to the Professional Appraiser within thirty (30) days after that approval by the Contract Representative.

#### **9. Payment Terms Negotiated**

Should the need arise, the Professional Appraiser reserves the right to negotiate different payment terms that do not diminish the scope or fee, but satisfy both County and Company needs.

#### **10. Penalties.**

Payments due under this Contract shall be reduced by the amount of TWO HUNDRED DOLLARS (\$200.00) per business day, for each business day that review by the Professional Appraiser remains incomplete after the due date specified under this Contract.

**11. Responsibilities.**

The final determination of assessed value and true tax value is and shall remain the responsibility of the Assessors.

**12. Non-Discrimination.**

Pursuant to IC 22-9-1-10, the Professional Appraiser and its subcontractors, if any, shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Contract, with respect to the individual's hire, tenure, terms, conditions, or privileges of employment, because of the individual's race, color, religion, sex, handicap, national origin or ancestry. Breach of this covenant may be regarded as a material breach of contract.

**13. General Provisions.**

- (a) This Contract sets forth the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior oral and written agreements and understanding between the Assessors and the Professional Appraiser. No representation, promise, inducement, or statement of intention has been made by either party which is not set forth in this Contract and neither party shall be bound by or liable for any alleged representation, promise, inducement or statement of intention not so set forth.
- (b) No waiver, alteration, modification, or cancellation of any of the provisions of this Contract shall be binding unless made in writing and signed by the County Assessor and the Professional Appraiser's designee. The failure of either party at any time or times to require performance of any provisions of this agreement shall not be considered a waiver and will in no manner affect the right at a later time to enforce that provision.
- (c) In the event that one or more of the provisions contained in this Contract shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions contained in this Contract. If any provisions contained in this Contract shall for any reason be held to be excessively broad as to duration, geographical scope, activity or subject, it shall be construed by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable law as it then shall appear.
- (d) This Contract shall be subject to and interpreted in accordance with the law of the State of Indiana and suit, if any, shall be brought in Indiana courts.

(e) This Contract shall be binding upon and inure to the benefit of the parties and their respective successors, assigns and legal representatives, provided, however, that this Contract is not binding upon a successor to the elected office of an undersigned Assessor without the successor's prior written consent, nor can the rights, duties, and privileges of the Professional Appraiser under this contract be transferred, sublicensed or assigned by it, either in whole or in part, without the prior written consent of the Assessors.

#### **14. Delays.**

Whenever the Professional Appraiser or the Assessors have knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, they shall within ten (10) days provide written notice of the delay to the other party by certified mail, return receipt requested, including all relevant information with respect to the actual or potential cause of the delay.

#### **15. Termination.**

The Assessors may terminate this Contract, if by unanimous vote they determine that the Professional Appraiser has failed to make satisfactory progress toward performance. In such case, the Assessors will transmit a Notice of the Default and termination to the Professional Appraiser forty (40) days prior to the proposed termination date, and the Professional Appraiser shall be given thirty (30) days in which to remedy the condition which has caused the Termination Notice, or suffer termination.

The Professional Appraiser shall continue Contract performance to the extent not terminated under the provisions of the above paragraph and shall be compensated for its performance pursuant to an agreement of the parties.

In the event the Assessors terminate this Contract, in whole or in part as provided in this section, the Assessors may procure, upon such terms and in such manner as they may deem appropriate, services similar to those so terminated, and the Professional Appraiser shall be liable to the Assessors for any excess costs for such similar services, provided, however, the amount of the performance bond, if any, retained by the Assessors shall be deducted in determining the excess costs.

#### **16. Appeals.**

If an assessed value recommended by the Professional Appraiser is appealed to any reviewing body, the Professional Appraiser or its employee or representative shall, if at least ten (10) days notice is given to the Professional Appraiser, appear at any hearing scheduled on the appeal of the parcel to explain its calculations. This duty of the Professional Appraiser to explain calculations shall terminate when all appeals have been resolved. The Professional Appraiser has included in the attached scope of services forty-five (45) days of informal and ten (10) days of formal hearings to be included in the base price of the contract. Additional days requested by the Assessors will be billed at a rate of Four Hundred Dollars (\$400.00) per day. (See Exhibit A)

**17. Independent Contractor.**

In the performance of this Contract, Professional Appraiser will be acting in an individual capacity and not as an agent, employee, partner, joint venture or associate of the Assessors. The employees or agents of the Professional Appraiser shall not be deemed or construed to be the employees or agents of the Assessors for any purpose whatsoever.

**18. Liability.**

Except as provided elsewhere, the Professional Appraiser agrees to defend and save harmless the Assessors and their townships and county, and all agents, officers and employees of those townships and that county, against all claims, demands, payments, suits, actions, recovery, and judgments of every kind and description arising out of the performance of this Agreement, for personal injury or property damage brought or recovered against it by reason of any negligent action or omission of the Professional Appraiser, its agents, or employees and with respect to the degree to which the Assessors are free from negligence on the part of itself, its employees and agents.

The Assessors agrees to defend and indemnify and save harmless the Professional Appraiser, its officers, agents and employees against all claims, demands, payments, suits, actions, recovery and judgments of every kind and description arising out of any valuation disputes, or challenges to the methodology employed under this Agreement brought or recovered against it, whether based in contract, negligence or otherwise.

Neither party shall be liable to the other for consequential, indirect or incidental damages, including, but not limited to, loss of tax revenue or claims related to valuation of property, whether based in contract, negligence, strict liability or otherwise.

In any event, the Professional Appraisers liability for damages (except for damage to real or personal property or personal injury as provided above) under any theory of liability or form of action including negligence shall not exceed the total amount paid by the Assessors to the Professional Appraiser under this agreement.

The Professional Appraiser shall carry Public Liability Insurance in the amount of \$1,000,000 including protection for bodily injury and property damage with a combined single limit of \$1,000,000 and \$500,000 for each occurrence.

The Professional Appraiser shall also maintain Automobile Liability Insurance providing limits of \$1,000,000 per occurrence, and the Professional Appraiser shall provide Worker's Compensation Insurance. The Worker's Compensation Insurance shall provide coverage under the Compensation Act of Indiana and shall provide employer's liability insurance in the amount of \$100,000.

Upon request by the Assessors, Certificates of Insurance shall be supplied to the Assessors by the Professional Appraiser detailing the above coverage. A carrier authorized to do business within the State of Indiana will issue these certificates.



**19. Subcontracting.**

The Professional Appraiser must obtain the approval of the Contract Representative and the County Executive before subcontracting all or any portion of this Contract. This limitation shall not apply to the purchase of standard commercial supplies or raw materials.

If subcontractors are used, the Professional Appraiser is responsible for contract performance, compliance with terms and conditions of this Contract, and the requirements of federal and state equal opportunity and affirmative action statutes, rules and regulations.

**20. Force Majeure.**

Neither party shall be liable for any loss, damage, failure, delay or breach in rendering any services or performing any obligations hereunder to the extent that such failure, delay or breach results from any cause or event beyond the control of the party being released hereby ("Force Majeure"), including but not limited to acts of God, acts or omissions of civil or military authorities.

If either party is prevented or delayed in the performance of its obligations hereunder by Force Majeure, that party shall immediately notify the other party in writing of the reason for the delay or failure to perform, describing in as much detail as possible the event of Force Majeure causing the delay or failure and discussing the likely duration of the Force Majeure and any known prospects for overcoming or ameliorating it. Both parties agree to take any commercially reasonable measures to overcome or ameliorate the Force Majeure and its adverse effects on this Agreement, and to resume performance as completely as is reasonably possible once the Force Majeure is overcome or ameliorated.

**21. Maintaining A Drug-Free Workplace.**

Professional Appraiser hereby covenants and agrees to make a good faith effort to provide and maintain during the term of this Contract a drug-free workplace, and that it will give written notice to the Assessors within ten (10) days after receiving actual notice that an employee of the Professional Appraiser has been convicted of a criminal drug violation occurring in Professional Appraiser's workplace.

In addition to the provisions of the above, if the total contract amount set forth in this Contract is in excess of \$25,000.00, Professional Appraiser further agrees that this Agreement is expressly subject to the terms, conditions and representations contained in the Drug-Free Workplace certification executed by Professional Appraiser in conjunction with this Contract and which is appended as an Attachment to this Agreement.

It is further expressly agreed that the failure of Professional Appraiser to in good faith comply with the terms of the above, or falsifying or otherwise violating the terms of the certification referenced above shall constitute a material breach of this Contract, and shall entitle the Assessors to impose sanctions against Professional Appraiser including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of Professional Appraiser from doing further business with the County for up to three (3) years.

**22. Non-Solicitation.**

During the Period of Agreement and for a period of six months following the project completion date, the Jurisdiction will not solicit for employment or hire any Company employee without the express written consent of the Company. Provided that this paragraph shall not apply if the contract is terminated.

**23. Additional Compensation. - Additional services**

Additional compensation that may be due the Company as the result of services requested by the Client that are beyond the scope of this Agreement will be invoiced in the month subsequent to the month in which the services were provided.

**24. Company Right To Stop Work For Non-Payment.**

Payment of billings is due within thirty (30) days after the date of each billing. Failure of the Client to make payment when due shall entitle the Company, in addition to its other rights and remedies, to suspend, temporarily, further performance of this Agreement without liability.

**25. Y2K Readiness.**

IAS, Landisc, and Univers Software which may be provided under this agreement or a separate one will properly handle date processing and will produce expected results before, during, and after the calendar year 2000 A.D. provided that the computer hardware and operating system supplied by the Client are also capable of processing dates properly before and after the calendar year 2000.

The Client affirms that its accounts payable system is year 2000 compliant, and payments due the Company after January 1, 2000 will not be delayed by year 2000 computer hardware or software problems.

